

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT HEIBEL,

Plaintiff,

Case No. 08-13078

Hon. Marianne O. Battani

v.

Magistrate Judge Mona K. Majzoub

DIRECTOR PATRICIA
CARUSO, et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND GRANTING DEFENDANTS' MOTION TO DISMISS**

Plaintiff Robert Heibel filed this action *pro se* alleging that his civil rights had been violated. The Court referred this action to Magistrate Judge Mona K. Majzoub for all pretrial proceedings. Thereafter, Defendants Brady and Prasad moved for dismissal.

In a Report and Recommendation ("R&R") dated January 14, 2009, Magistrate Judge Majzoub recommended that the motion be granted because Heibel failed to exhaust his administrative remedies. See Doc. No. 22, R&R at 3. In the alternative, the Magistrate Judge concludes that Plaintiff's allegations against Dr. Prasad and Dr. Brady fail to state a claim of deliberate indifference to serious medical needs. Id. at 5.

Under 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2), a party seeking review of a magistrate judge's report and recommendation is required to act within ten days of service of the R&R. A party's failure to file objections waives any further right of appeal. Because Plaintiff filed no objection in this case, he has waived his right to *de novo* review

and appeal.

Accordingly, the Court **ADOPTS** the Report and Recommendation and **DISMISSES** the complaint.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: February 13, 2009

CERTIFICATE OF SERVICE

Copies of this Order were mailed and/or e-filed to Plaintiff and counsel of record on this date.

s/Bernadette M. Thebolt
Deputy Clerk